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phate Co. v. Farmers' Fertilizer Co. (1913) 94 S. C. 212, 77 S. E. 863. However, the present English view seems to be that the qualifying phrase prevents the recital from being even *prima facie* evidence of the quantity. *New Chinese Antimony Co. v. Ocean Steamship Co.*, *supra*. On the other hand, where, as in the instant case, the goods are in closed containers, it would be practically impossible for the carrier to open each box to ascertain the amount within. In such case, the bill of lading with the words "contents unknown" or a like qualification admits only the visible exterior and is not even *prima facie* evidence that the package contains the described quantity. *Isdaner v. Philadelphia & Reading Ry.* (1913) 54 Pa. Super. Ct. 509; *Miller v. Hannibal & St. Joseph R. R.* (1882) 90 N. Y. 430.

CONFLICT OF LAWS—RULE OF THE PLACE OF PERFORMANCE—SUBSEQUENT ILLEGALITY.—The defendants, an English Company, entered into a charter party in England with the plaintiffs, a Spanish Company, through the agents of the latter, providing for the carriage by the plaintiffs' ship of jute from Calcutta to Spain. The freight charge was £50 per ton, one half payable in London upon the departure of the vessel from Calcutta, the other half payable by the receivers of the cargo at the port of discharge in Spain. The charter party provided for the arbitration of disputes in London. After the making of the agreement, Spain decreed that the maximum amount of freight payable on jute imported into Spain should be 875 *pesetas* per ton, a sum less than £50 per ton. The plaintiffs' steamer sailed from Calcutta and the defendants paid one half of the freight to the plaintiffs' agents in London. The receivers in Spain refused to pay more than 875 *pesetas* per ton and the plaintiffs sue for the balance. *Held*, for the defendants. *Ralli Brothers v. Compania Naviera Sota y Aznar* (1920) 25 Times Commercial Cases 227.

In a purely domestic transaction it is well settled that subsequent illegality excuses both parties from performance. *Metropolitan Water Board v. Dick, Kerr & Co.* [1918] 1 A. C. 119; *Public Service Electric Co. v. Board of Public Utility Com'rs* (1915) 87 N. J. L. 128, 93 Atl. 707. In the early English cases, when a contract was to be performed in whole or in part in a jurisdiction where performance became illegal according to the foreign law, the parties were not excused from performance. *Sjoerds v. Luscombe* (1812) 16 East 201; *Barker v. Hodgson* (1814) 3 M. & S. 2677. American courts still adhere to this doctrine. *Tweedie Trading Co. v. James P. McDonald Co.* (D. C. 1902) 114 Fed. 985; *Richards & Co. v. Wreschner* (1916) 174 App. Div. 484, 156 N. Y. Supp. 1054. The more recent English cases have released parties from their obligations where the contract was illegal according to the *lex loci solutionis*. *Cunningham v. Dunn* (1878) L. R. 3 C. P. D. 443; *cf. Ford v. Cotesworth* (1870) L. R. 5 Q. B. 544. Assuming that the court's interpretation of the charter party involved in the instant case is accurate, these later authorities are controlling. However, non-performance of contracts cannot be excused in every case merely on the ground of illegality created by foreign law, for in many cases such illegality may have been created solely as a form of political retaliation. See 2 Parsons, *Contracts* (9th ed. 1904) *754. In the absence of such special circumstances, sound policy dictates the recognition of the positive laws of a foreign country, and where performance is rendered illegal the contracting parties should be excused. Much of the confusion of the courts arises from confounding "impossibility in point of fact" with so-called "impossibility in point of law".

CRIMINAL LAW—TRIAL BY JURY—DIRECTED VERDICT.—In a criminal action punishable by imprisonment, where all the facts were undisputed, a federal judge